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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
CONSUMER SERVICES DIVISION**

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Mortgage Broker Practices Act of Washington by:

RICHARD TODD HEINRICKS
Respondent.

DFI NO. C-04-088-04-CO01
OAH NO. 2004-DFI-0004

CONSENT ORDER

COMES NOW the Director of the Department of Financial Institutions (Director), through her designee Chuck Cross, Division Director, Division of Consumer Services, and Richard Todd Heinrichs (hereinafter as Respondent), and finding that the issues raised in the captioned matter may be economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is entered pursuant to chapter 19.146 of Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

AGREEMENT AND ORDER

The Department of Financial Institutions, Division of Consumer Services (Department) and Respondent have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-04-088-04-SC01 (Statement of Charges), entered April 15, 2004, (copy attached hereto). Pursuant to chapter 19.146 RCW, the Mortgage Broker Practices Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondent hereby agrees to the Department's entry of this Consent Order and further agrees that the issues raised in the above captioned matter may be economically and efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully resolve the Statement of Charges, entered April 15, 2004.

Based upon the foregoing:

A. **Jurisdiction.** It is AGREED that the Department has jurisdiction over the subject matter of the activities discussed herein.

B. **Waiver of Hearing.** It is AGREED that Respondent has been informed of the right to a hearing before an administrative law judge, and that he has waived his right to a hearing and any and all administrative and judicial review

CONSENT ORDER

1 of the issues raised in this matter, or of the resolution reached herein. Accordingly, Respondent agrees to dismiss his
2 appeal and to inform the Office of Administrative Hearings in writing of his dismissal.

3 **C. Consent to Be Bound By Order.** It is AGREED that the parties shall be bound by the terms and
4 conditions of this Consent Order as set forth herein.

5 **D. Fine (Partially Stayed).** It is AGREED that Respondent is subject to a fine by the Department in the
6 amount of \$9,000.00 for:

7 a. Violating RCW 19.146.050, calculated at \$100 per day for 45 days; and

8 b. Violating RCW 19.146.200, calculated at \$100 per day for 45 days.

9 HOWEVER, it is further AGREED that Respondent shall pay to the Department \$3,000.00 of the total fine, in the form
10 of a cashier's check which shall be made payable to the "Washington State Treasurer" and which shall be provided to
11 the Department no later than the close of business Friday December 31, 2004, and that the balance of the fine
12 (\$6,000.00) shall be stayed for the period of five (5) years from the date of entry of this Consent Order, subject to the
13 Department's authority to lift the stay and impose the balance of the fine (\$6,000.00) discussed in paragraph F of this
14 Consent Order. It is further AGREED that if, upon expiration of said five (5) year period, the stay has not been
15 previously lifted, and the balance of the fine (\$6,000.00) has not been previously imposed, and if a notification to lift the
16 stay or proceeding to lift the stay is not then pending by the Director to impose the balance of the fine (\$6,000.00), then,
17 in such events, the Department shall consider this paragraph of this Consent Order fully performed and the stayed
18 portion of the fine (\$6,000.00) will not be collected from Respondent. HOWEVER, if on the expiration of said five (5)
19 year period a notification to lift the stay or proceeding to lift the stay is pending by the Director to impose the balance of
20 the fine (\$6,000.00), then those proceedings shall continue according to the terms of this Consent Order, as discussed in
21 paragraph F below.

22 **E. Restriction on Participation in the Industry (Partially Stayed).** It is AGREED that Respondent is
23 subject to a prohibition from participating in the conduct of the affairs of any licensed mortgage broker or any mortgage
24 broker exempt under Washington law under RCW 19.146.0201(1)(d) or (f) for ten (10) years from the date of entry of

1 this Consent Order in any capacity, including but not limited to: (1) any financial capacity whether active or passive or
2 (2) as an officer, director, principal, designated broker, employee, or loan originator or (3) any management, control,
3 oversight or maintenance of any trust account(s) in any way related to any residential mortgage transaction or (4)
4 receiving, disbursing, managing or controlling in any way, consumer trust funds in any way related to any residential
5 mortgage transaction. It is further AGREED that this prohibition shall be stayed only to the extent that Respondent
6 shall be allowed to work as a loan originator or employee in the Mortgage Broker industry. Such stay shall be subject
7 to the Department's authority to lift the stay and impose the balance of the ten (10) year prohibition discussed in
8 paragraph F of this Consent Order. It is further AGREED that if, after five (5) years from the date of entry of this
9 Consent Order, the stay has not been previously lifted, and the balance of the ten (10) year prohibition has not been
10 previously imposed, and if a notification to lift the stay or proceeding to lift the stay is not then pending by the Director
11 to impose the balance of the ten (10) year prohibition, and if Respondent has provided the Department with a written
12 statement signed under penalty of perjury of the laws of the State of Washington that he has complied with the terms
13 and conditions of this Consent Order, then, in such events, the Department shall consider this paragraph of this Consent
14 Order fully performed and the stayed portion of the ten (10) year prohibition will not be imposed on the Respondent.
15 HOWEVER, if after five (5) years from the date of entry of this Consent Order, notification to lift the stay or
16 proceeding to lift the stay is pending by the Director to impose the balance of the ten (10) year prohibition, then those
17 proceedings shall continue according to the terms of this Consent Order, as discussed in paragraph F below.

18 **F. Lifting of Stay and Imposing Prohibition.** It is AGREED that:

- 19 1. If the Department determines that Respondent is in violation of RCW 19.146.0201(1), (2),
20 (3), or (11), RCW 19.146.050, RCW 19.146.200, or any of the terms and conditions of this
21 Consent Order and the Department accordingly seeks to lift the stay and impose the balance
of the fine (\$6,000.00) and impose the balance of the ten (10) year prohibition, the
Department first will notify Respondent in writing of its determination.
- 22 2. Respondent will be afforded ten (10) business days from the date of receipt of the
23 Department's notification to request in writing an expedited administrative hearing to be held
24 before an Administrative Law Judge (ALJ) from the Office of Administrative Hearings
(OAH).

3. Respondent's request for hearing must be sent to the Department and received by the Department within ten (10) business days of the date of the receipt of the Department's notice.
4. Respondent, in addition to his request for hearing, may provide a written response to include any information pertaining to the alleged noncompliance.
5. The administrative hearing shall be expedited and follow the timing and processes described in this Consent Order.
6. If Respondent does not request the expedited hearing within the stated time, the Department immediately will impose the balance of the fine (\$6,000.00), impose the balance of the ten (10) year prohibition, and pursue whatever action it deems necessary to collect the balance of the fine and impose the prohibition. Payment must be made by cashier's check payable to the "Washington State Treasurer."
7. If requested, the hearing will be held within fifteen (15) business days (or as soon as the schedule of the ALJ permits) from the due date for Respondent's request for hearing or from the date of receipt of Respondent's timely request for hearing, whichever is sooner. The parties will accommodate the prompt scheduling of the hearing.
8. The scope and issues of the hearing are limited solely to whether or not Respondent is in violation of RCW 19.146.0201(1), (2), (3), or (11), RCW 19.146.050, RCW 19.146.200, or any of the terms and conditions of this Consent Order.
9. At the conclusion of the hearing, the ALJ will issue an initial decision. Either party may file a Petition for Review with the Director of the Department.
10. The Department's notification will include:
 - a) A description of the alleged noncompliance;
 - b) A statement that because of the noncompliance, the Department seeks to lift the stay and impose the balance of the fine (\$6,000.00) and impose the balance of the ten (10) year prohibition;
 - c) The opportunity for Respondent to contest the Department's determination of noncompliance in an administrative hearing before an ALJ of OAH; and
 - d) A copy of this Consent Order. The notification and hearing process provided in this Consent Order applies only to this Consent Order. It is solely provided in the event Respondent chooses to contest the Department's determination of noncompliance.

G. Application for Mortgage Broker License. It is AGREED that Respondent shall not apply to the Department for a mortgage broker license or a consumer loan license under any name for a period of five (5) years from

the date of entry of this Consent Order. It is further AGREED that, should Respondent apply to the Department for a mortgage broker license or consumer loan license at any time after five (5) years from the date of entry of this Consent Order, Respondent shall be required to meet any and all application requirements in effect at that time.

H. Restitution to Injured Borrower. It is AGREED that Respondent shall, within five (5) days of the date of entry of this Consent Order, make restitution to Kathryn M. Rawley in the amount of \$4,589.75 for loan fees paid for a loan originated without a license. It is further AGREED that Respondent shall provide the Department with written proof of such payment within forty-five (45) days of the date of entry of this Consent Order. The “written proof” at a minimum must consist of copies of the front and back of cancelled checks.

I. Payment to Third-Party Service Provider. It is AGREED that Respondent shall, within five (5) days of the date of entry of this Consent Order, pay \$400.00 to A-1 Appraisals, 10870 Farmers Dr., Moses Lake, Washington 98837, for an appraisal performed at Respondent’s request on or around October 4, 2002. It is further AGREED that Respondent shall provide the Department with written proof of such payment within forty-five (45) days of the date of entry of this Consent Order. The “written proof” at a minimum must consist of copies of the front and back of cancelled checks.

J. Investigation Fee. It is AGREED that Respondent shall pay to the Department an investigation fee of \$621.14, calculated at \$47.78 per hour for thirteen (13) staff hours devoted to the investigation, in the form of a cashier’s check which shall be made payable to the “Washington State Treasurer” and which shall be provided to the Department no later than the close of business Friday December 31, 2004.

K. Notification of Current Address and Telephone Number(s). It is AGREED that Respondent must notify the Department in writing of any changes in his current address and telephone number(s) during the duration of this Consent Order.

L. Authority of Department. It is AGREED that nothing in this Consent Order shall be construed as preventing the Department from fully exercising its authority and enforcing any provision of Title 19 Revised Code of Washington and Title 208 of the Washington Administrative Code.

1 **M. Compliance with the Law.** It is AGREED that Respondent shall comply with the Mortgage Broker
2 Practices Act and the rules adopted thereunder.

3 **N. Non-Compliance with Order.** It is AGREED that Respondent understands that failure to abide by
4 the terms and conditions of this Consent Order may result in further legal action by the Director. In the event of
5 such legal action, Respondent may be responsible to reimburse the Director for the cost incurred in pursuing such
6 action, including but not limited to, attorney fees.

7 **O. Voluntarily Entered.** It is AGREED that the undersigned Respondent has voluntarily entered into this
8 Consent Order, which is effective when signed by the Director's designee.

9 **P. Completely Read, Understood, and Agreed.** It is AGREED that Respondent has read this Consent
10 Order in its entirety and fully understands and agrees to all of the same.

11 **RESPONDENT:**

12
13
14 _____
RICHARD TODD HEINRICKS

_____ Date

15
16 **DO NOT WRITE BELOW THIS LINE**

17 THIS ORDER ENTERED THIS 13th DAY OF August, 2004.

18
19 /s/_____

20 **CHUCK CROSS**
21 Director and Enforcement Chief
22 Division of Consumer Services
23 Department of Financial Institutions
24